

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON DAMIEN BENAVIDEZ,

1:10-cv-02041-DLB (HC)

Petitioner,

ORDER TRANSFERRING CASE TO THE
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF
CALIFORNIA

vs.

JAMES D. HARTLEY,

Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same state, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

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1 In this case, the petitioner is challenging a conviction from Santa Clara County, which is in the
2 Northern District of California. Therefore, the petition should have been filed in the United States
3 District Court for the Northern District of California. In the interest of justice, a federal court may
4 transfer a case filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.
5 McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

6 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States
7 District Court for the Northern District of California.

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9 IT IS SO ORDERED.

10 **Dated: November 5, 2010**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE